

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

ARTHUR L. MERCER,

Plaintiff,

v.

1:14-CV-1029
(GTS/RFT)

KEVIN HARP, Assist. Dist. Attorney, Ulster Cnty.;
and DONALD WILLIAMS, Cnty. Court Judge,
Ulster Cnty.,

Defendants.

APPEARANCES:

ARTHUR L. MERCER, #1646

Plaintiff, *Pro Se*
Ulster County Jail
380 Boulevard
Kingston, New York 12401

GLENN T. SUDDABY, United States District Judge

DECISION and ORDER

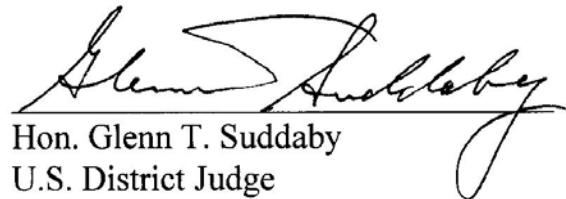
Currently before the Court, in the above-captioned civil rights action filed *pro se* by Arthur L. Mercer (“Plaintiff”) against the two above-captioned individuals (“Defendants”), is United States Magistrate Randolph F. Treece’s Report-Recommendation and Order of January 23, 2015, which does three things: (1) denies Plaintiff’s motion to proceed *in forma pauperis* because of the “three strikes” provision of 28 U.S.C. § 1915(g); (2) recommends that Plaintiff’s Complaint be *sua sponte* dismissed pursuant to 28 U.S.C. § 1915A because it fails to state a claim upon which relief can be granted and it seeks relief from defendants who are immune from suit; and (3) recommends that this matter be forwarded to Chief United States District Judge Gary L. Sharpe for the issuance of an Order prohibiting Plaintiff from filing any further actions

in this District *pro se* without first seeking leave of the Chief Judge because of Plaintiff's vexatious litigation history. (Dkt. No. 8.) Plaintiff has not filed an objection to the Report-Recommendation, and the deadline by which to do so has expired. (*See generally* Docket Sheet.) After carefully considering the matter, the Court can find no clear error¹ in Magistrate Judge Treece's Report-Recommendation: Magistrate Judge Treece employed the proper standards, accurately recited the facts, and reasonably applied the law to those facts. (Dkt. No. 8.) As a result, the Report-Recommendation is accepted and adopted in its entirety for the reasons stated therein.

ACCORDINGLY, it is

ORDERED that Magistrate Judge Treece's Report-Recommendation (Dkt. No. 8) is **ACCEPTED** and **ADOPTED** in its entirety; and it is further
ORDERED that Plaintiff's Complaint (Dkt. No. 1) is **DISMISSED**; and it is further
ORDERED that this matter be forwarded by the Clerk of the Court to Chief Judge Sharpe for a determination of whether to issue an Order prohibiting Plaintiff from filing any further actions in this District *pro se* without first seeking leave of the Chief Judge.

Dated: February 25, 2015
Syracuse, New York



Hon. Glenn T. Suddaby
U.S. District Judge

¹ When no objection is made to a report-recommendation, the Court subjects that report-recommendation to only a clear error review. Fed. R. Civ. P. 72(b), Advisory Committee Notes: 1983 Addition. When performing such a "clear error" review, "the court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation." *Id.*; *see also Batista v. Walker*, 94-CV-2826, 1995 WL 453299, at *1. (S.D.N.Y. July 31, 1995) (Sotomayor, J.) ("I am permitted to adopt those sections of [a magistrate judge's] report to which no specific objection is made, so long as those sections are not facially erroneous.") (internal quotation marks and citations omitted).